

32 KAR 2:170. In-kind contributions.

RELATES TO: KRS 121.015(6)

STATUTORY AUTHORITY: KRS 121.120(1)(g)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 121.120(1)(g) grants the Registry the power to promulgate administrative regulations necessary to carry out the provisions of KRS Chapter 121. KRS 121.015(6)(b), (c), and (d) include the payment for or provision of certain goods and services to a candidate, slate of candidates, committee, or contributing organization within the definition of "contribution". These payments are known as "in-kind" contributions. This administrative regulation identifies the circumstances under which a contribution falls within the in-kind category.

Section 1. Definition. (1) "In-kind contribution" means those contributions established in KRS 121.015(6)(b) and (c).

Section 2. (1) A candidate, slate of candidates, committee, or contributing organization shall not conspire with an individual or other entity to disguise an illegal contribution as an in-kind contribution.

(2)(a) A business enterprise may make an in-kind contribution to a candidate, slate of candidates, committee, or contributing organization provided, however, that the business enterprise is not incorporated.

(b) The owner of a corporation may make personal in-kind contributions provided that no corporate funds or assets are involved, or, if corporate property such as copiers, telephones, or other office equipment are utilized, the actual costs are billed to the owner and reimbursed with personal funds, and the cost does not exceed the applicable individual contribution limit contained in KRS 121.150.

(c) A candidate shall not accept the use of the assets of any corporation unless the fair market value is billed to the campaign and paid for with campaign funds.

(3) If goods or services are provided at less than the rate normally charged, the amount of the in-kind contribution shall be the difference between the usual and normal charge for the goods and services at the time of the contribution and the amount actually charged.

(4) If an employee engages in activity for the benefit of a candidate, slate of candidates, committee, or contributing organization during the employee's normal working hours, that activity is not an in-kind contribution if the employee:

(a) Is paid on an hourly or salaried basis and the taken or released time is made up or completed by the employee within a reasonable time;

(b) Is paid on a commission or piecework basis or is paid only for work actually performed and the employee's time is considered his or her own to use as he or she sees fit; or

(c) Uses compensable earned leave time.

Section 3. A contribution made under the following circumstances shall not be considered an in-kind contribution:

(1) Payment for goods and services previously or simultaneously acquired by a candidate, slate of candidates, committee, or contributing organization; or

(2) Payment of a debt with cash received by a candidate, slate of candidates, committee, or contributing organization without depositing the funds into the campaign account and complying with all applicable reporting requirements. (20 Ky.R. 1720; 3191; eff. 6-2-1994; 32 Ky.R. 710; 1083; eff. 1-6-2006; Crt eff. 9-27-2019.)